

ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ಚುಕ್ಕೆ ಗುರುತಿನ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ	:	1034
ಸದಸ್ಯರ ಹೆಸರು	:	ಶ್ರೀ ಪುಟ್ಟಣ್ಣ
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	:	10-03-2021
ಉತ್ತರಿಸುವ ಸಚಿವರು	:	ಮಾನ್ಯ ಸಮಾಜ ಕಲ್ಯಾಣ ಸಚಿವರು

ಕ್ರ.ಸಂ.	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ಸಮಾಜ ಕಲ್ಯಾಣ ಇಲಾಖೆಯಡಿ ಬರುವ ಮೊರಾರ್ಜಿ ದೇಸಾಯಿ ವಸತಿ ಶಾಲೆಗಳಲ್ಲಿ ಹೊರಸಂಪನ್ಮೂಲದ ನೇಮಕಾತಿ ಹೊಂದಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಶಿಕ್ಷಕರು ಮತ್ತು ಪ್ರಾಂಶುಪಾಲರ ಸಂಖ್ಯೆ ಎಷ್ಟು; (ವಿವರ ನೀಡುವುದು)	ಕರ್ನಾಟಕ ವಸತಿ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳ ಸಂಘದ ವಸತಿ ಶಾಲೆಗಳಲ್ಲಿ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಹೊರಸಂಪನ್ಮೂಲ ಶಿಕ್ಷಕರ /ಪ್ರಾಂಶುಪಾಲರ ವಿವರ ಈ ಕೆಳಕಂಡಂತಿವೆ. 1. ಹೊರಸಂಪನ್ಮೂಲ ಪ್ರಾಂಶುಪಾಲರು-37 2. ಹೊರಸಂಪನ್ಮೂಲ ಶಿಕ್ಷಕರು-483
ಆ)	ಸದರಿ ಪ್ರಾಂಶುಪಾಲರು ಮತ್ತು ಶಿಕ್ಷಕರುಗಳಿಗೆ ವಯೋಮಿತಿ ಸಡಿಲಿಸಿ ಕೃಪಾಂಕ ನೀಡಿ ನೇಮಕಾತಿ ಮಾಡುವಂತೆ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಆದೇಶ ಮಾಡಿರುವುದು ನಿಜವೇ; (ಆದೇಶದ ಪ್ರತಿ ನೀಡುವುದು)	ಮೇಲ್ಕಂಡ ಹೊರಸಂಪನ್ಮೂಲ ಪ್ರಾಂಶುಪಾಲರು ಹಾಗೂ ಶಿಕ್ಷಕರ ಪೈಕಿ ವಯೋಮಿತಿ ಮೀರಿರುವ ಶ್ರೀ ಚಿದಾನಂದ ಮಲ್ಲಪ್ಪ ಆದಿಗೊಂಡೆ, ಗಣಿತ ಶಿಕ್ಷಕರೊಬ್ಬರು ಮಾತ್ರ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ: 54499/2015ನ್ನು ದಾಖಲಿಸಿದ್ದು, ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸದರಿ ಶಿಕ್ಷಕರಿಗೆ ವಯೋಮಿತಿ ಸಡಿಲಿಸಿ ಸೇವಾ ಕೃಪಾಂಕ ನೀಡಲು ತೀರ್ಪು ನೀಡಿರುತ್ತದೆ. ಆದೇಶದ ಪ್ರತಿಯನ್ನು ಅನುಬಂಧದಲ್ಲಿ ನೀಡಿದೆ
ಇ)	ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಇದುವರೆಗೆ ಎಷ್ಟು ಪ್ರಾಂಶುಪಾಲರು ಮತ್ತು ಶಿಕ್ಷಕರಿಗೆ ವಯೋಮಿತಿ ಸಡಿಲಿಸಿ ಆದೇಶ ನೀಡಲಾಗಿದೆ; (ವಿವರ ನೀಡುವುದು)	ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲದ ಆದೇಶದಂತೆ ಒಬ್ಬರು ಪ್ರಾಂಶುಪಾಲರು ಮತ್ತು 04 ಜನ ಶಿಕ್ಷಕರು ವಯೋಮಿತಿ ಮೀರಿದ್ದು, ಈ 5 ಬೋಧಕ ಸಿಬ್ಬಂದಿಗೆ ವಯೋಮಿತಿ ಸಡಲಿಸಿ, ಸೇವಾ ಕೃಪಾಂಕ ನೀಡಿ, ನೇಮಕಾತಿಗೆ ಪರಿಗಣಿಸುವ ಪ್ರಸ್ತಾವನೆಯು ಪರಿಶೀಲನೆಯಲ್ಲಿರುತ್ತದೆ.
ಈ)	ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಉಳಿದಿರುವ ಎಷ್ಟು ಸಿಬ್ಬಂದಿಗೆ ನೇಮಕಾತಿ ಆದೇಶವನ್ನು ನೀಡಬೇಕಾಗಿದೆ; ಇವರುಗಳಿಗೆ ಯಾವ ಕಾಲಮಿತಿಯೊಳಗೆ ಆದೇಶ ನೀಡಲಾಗುವುದು?	

ಸಂಖ್ಯೆ: ಸಕಇ 94 ಮೊದೇಶಾ 2021

(ಬಿ. ಶ್ರೀರಾಮುಲು)
ಸಮಾಜ ಕಲ್ಯಾಣ ಸಚಿವರು.

ಅನುಬಂಧ

29283/18 (33)

Sri K.B. Narayana Swamy

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF OCTOBER, 2018

BEFORE

THE HON'BLE MR. JUSTICE L. NARAYANA SWAMY

WRIT PETITION NO.54499 2015 (S-RES)

Between

Chidananda Mallappa Adigonde
S/o Mallappa
Aged about 48 years
Working as Mathematics Teacher in
Minority Morarjidesai Residential School
'X' Chadachan, 'X'
Indi Taluk
Vijapur District 586 205
Residing at Ravatgao Talluk and District 586 205

...Petitioner

(by K.B. Narayanaswamy, Advocate)

And:

1. State of Karnataka
   Rep by its Secretary
   Department of Social Welfare
   Vikas Soudha
   Bengaluru 560 001

2. The Karnataka Residential Educational
   Institutions Society
   Represented by its Executive Director
   Roopa Complex
   No.179, II and III Floor, I Main
   Sheshadripuram
   Bengaluru 560 020



(332)

3. State of Karnataka
   Represented by its Secretary
   Department of Minorities
   Vikas Soudha
   Bengaluru 560 001

4. Principal
   Morarji Desai Residential School for Minorities
   Village and Post Chadachan
   Indi Taluk
   Vijayapur District 586 205

...Respondents

(by Shri E.S. Indiresh, AGA for R1;
Shri Nagaiah, Advocate for R2;)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to hold the petitioner as regularly recruited teachers during no rule period and is entitled to be continued in service till the age of superannuation; etc.

This Writ petition coming on for hearing this day, the Court made the following:

ORDER

The petitioner applied for the post of Mathematics teacher and he satisfied the requisite qualification as per Notification to the said post. The candidature of the petitioner has been rejected on the ground that he was over-aged. The non-selection of the petitioner on the ground of age barred, is the subject matter in this petition.



2. The learned counsel for the petitioner submits that the petitioner was entitled for service benefit since he has served with the respondent since 07th August 2007 and since he has served for four years, he is entitled for service weightage of 20 marks; and if that is extended, the percentage of marks secured would be 63.10 and if that is taken, the petitioner gets entitled for selection to the said post.

3. The learned counsel for the second respondent submits to dismiss the petition. He submits that the petitioner's case has been rejected on the ground of over-age which is the requisite qualification as per the Notification to submit the application. It is further clarified that on the date of Notification, whoever comes within such qualification, their cases have been considered and for the purpose of age relaxation, as per the Notification, it was extended only to the persons who are appointed on direct recruitment. The petitioner, initially, was not appointed by respondent, much less, also on contract basis. It is an undisputed fact that the petitioner was appointed through out-sourcing. Hence, he is not entitled for such relaxation of

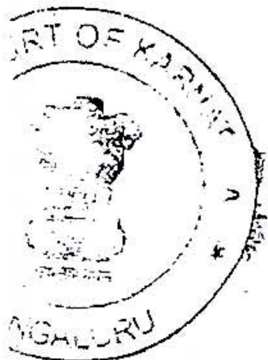


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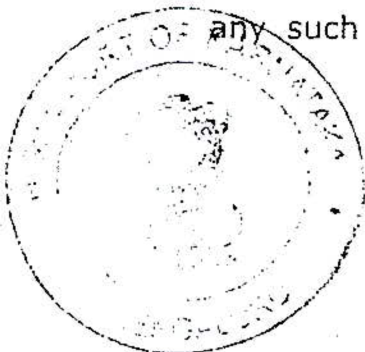
service weightage. The learned counsel relied upon the judgment of this Court in Writ Appeal No.5866-6258 of 2012 disposed of on 28th February 2013 and drew my attention to paragraph 4 of the judgment.

4. Heard the learned counsel for the parties. The straight question that arise for consideration is what could be the age as per the Notification. The relevant part of the 'Note' with regard to age limit as per Notification is extracted hereinbelow:

> *"Note.- Age Limit: Maximum age limit for posts from serial number 23 to 31 is for Scheduled Castes, Scheduled Tribes and Category-I of backward classes is 45 years. For IIA, IIB, IIIA, IIIB of other Backward Classes is 43 years and for General – 40 years.*
>
> *Provided that in respect of candidates who are working in the posts at serial number 23, 24, 25, 26, 27, 28, 29, 30, 31 in column (2) of this schedule in Morarji Desai Residential Schools on contract basis and are appointed by the Karnataka Residential Education Institutions Society, the maximum age limit shall be relaxed by one year for each completed years of service."*



5. As per the said Notification, the candidates who are working in Morarji Desai Residential Schools on contract basis and are appointed by the Karnataka Residential Education Institutions Society, the maximum age limit shall be relaxed by one year for each completed years of service. Stressing this, the learned counsel for the respondent submits that the age relaxation benefit would be extended for the persons who are appointed directly by the respondent even on contract basis. But the petitioner is appointed by out-sourcing agency and this aspect for the purpose of extension of service weightage was concluded by this Court in Writ Petitions No.20204-20364 of 2011 and connected matters and it has been held that the service benefit is to be extended with maximum classification where they are appointed directly and not through out-sourcing. If that analogy is operated for the present person, It is needless to state that the candidates situated like the petitioner who worked for the respondent through out-sourcing agency are not entitled for the service benefit of relaxation of one year for each completed year of service. Article 14 of the Constitution forbids any such classification. The petitioner who had undisputedly



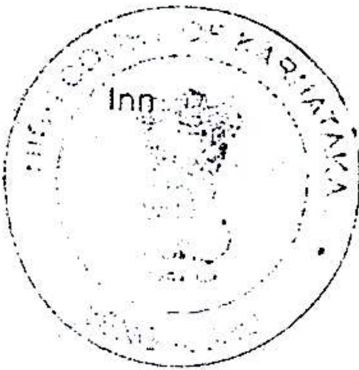
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served the respondent has to be extended the benefit of service benefit by relaxing one year for each completed year of service. What is required is whether the persons situated like the petitioner who have served for respondent are to be considered for the purpose of extension of service weightage. The said question is covered in the Writ Petition referred supra. No matter whether they are serving the respondent through direct recruitment; or on contract basis; or through out-sourcing, their services have been extracted by the respondents. Under these circumstances, they cannot be edged out on the ground that their appointment is through out-sourcing. The notification is very clear that in respect of candidates who have served in Morarji Desai Residential Schools on contract basis and are appointed by the Karnataka Residential Education Institutions Society, the maximum age limit shall be relaxed by one year for each completed year of service, then it is not open for the respondents to make such classification. The relaxation is extendable to all even if the applicants are serving the respondents through out-sourcing agency. If that discrimination is done, persons who are discharging their services to the



respondent through out-sourcing agency will be deprived of getting appointed for a certain period or for their entire life itself because of being age-barred. Under the circumstance, I hold that the petition is entitled for consideration of age relaxation. In view of the discussion made above, the respondents are directed to consider to relax the age and by giving service benefit as regards petitioner is concerned. Time for compliance is three months from today. In terms of the above, petition stands disposed of.

Sd/-
JUDGE



TRUE COPY
01.12.18
Section Officer
High Court of Karnataka
Bengaluru-560 001

a) The date on which the application was made 16/10/18
b) The date on which charges and additional Charges if any are called for —
c) The dated on which charges and additional Charges if any are deposited/Paid —
d) The date on which the copy is ready 1/12/18
e) The date of notifying that the copy is ready For delivery 5/12/18
f) The date on which the applicant is required to appear on or before 5/12/18
g) The date on which the copy is delivered to the applicant 13/12/18
Examined by